

DRAFT

Governor's Blue Ribbon Water Task Force

Meeting Notes  
September 23-24, 2004  
Farmington, NM

Attendees: Brian Burnett, John D'Antonio, Bill Hume, Larry Blair, Conci Bokum, Frank Chaves, Peter Davies, Eilleen Hillson, Steve Hernandez, David Hughes, Sarah Kotchian, Elmer Lincoln, John Leeper, Paul Paryski, Manuel Trujillo, Bob Vocke, and Jack Westman attended the meeting. Jim Dunlap (ISC), Pat Page (BoR), and Randy Kirkpatrick (San Juan Water Commission) attended as guests. BHP Billiton hosted the Task Force meeting (including dinner).

The next meeting of the BRWTF will be October 27-28 in Albuquerque, NM.

Pat Page made the following points relative to operating Navajo Dam:

- BoR uses most probable % of inflow number (50% above/50% below) for operations;
- Navajo Reservoir full storage is at 6085 with 1 M af of available water;
- 2002 was very dry (most probable predicted inflow number dropped from 65% to 10%) with an actual inflow of 15% of 1M af, however, there was substantial storage going into 2002;
- ESA drove releases in 2002 (500 cfs minimum flow, weekly average);
- The San Juan River has competing water uses e.g., recreation, irrigation, habitat, and power production;
- NIIP is the major water user (Navajo non-dam diversion is at 5990-5980);
- Dam safety issues and Navajo diversion works integrity occur at 5990;
- The Navajo Nation requested that a shortage be declared in October 2002;
- BoR assembled key players (Navajo Reservoir contractors, non-contractors, other federal agencies [BIA and F&WS], State of NM [OSE/ISC]) to address the potential shortage;
- Shortage issues included
  - 1962 Act shortage sharing language (includes flow vs. storage issue)
  - ESA Recovery Program
  - Other federal laws e.g., NEPA
  - Ongoing adjudication of water rights
  - Unsettled Navajo claims
  - The NIIP diversion
  - Lack of administration on the San Juan River
  - Differing legal opinions on diverting release of stored water
  - Mistrust of governments (Federal, State, and Tribal);
- The 10 key parties endorsed the following projected minimum probable projection approach (how contractors share in shortages is up to them)
  - Shorten irrigation season (river flow diverters approach)
  - Cease irrigation diversions mid-season
  - Reduce total volume of diversion by % (power plant and NIIP approach)
  - Reduce instantaneous flow by % (ESA target base flow approach);
- BoR updates forecast every two weeks;
- Shortage sharing principles of implementation included establishing a mitigation fund (helps ensure power plant water supply – leased Jicarilla Apache water);
- Shortage sharing results
  - Cooperative solution
  - Avoided litigation
  - Minimal shortages to users (voluntary)
  - Drought continued in 2003 (38% average for the year with reservoir at 5995)
  - Minimal carry over to 2004;

- 2004 sharing agreement similar to 2003 (65% average for the year projected for Navajo Reservoir);
- EIS in process for operating Navajo Dam (includes ESA habitat flows); and
- The ESA recovery program is making a difference (pike minnows are recovering more than razorbacks).

Jim Dunlap discussed the draft Navajo Nation Water Rights Settlement and made the following points:

- The Upper Colorado River Basin Compact of 1984 allocates 50,000 afy of consumptive use to Arizona and apportions water to the Upper Basin States (Colorado [51.75%], New Mexico [11.25%], Utah [23.00%], and Wyoming 14.00%) (Note: The Hydrologic Determination of 1989 shows the Upper Basin as having a firm yield of 6.0 M afy after accounting for downstream Compact delivery obligations.);
- NM's Upper Basin allocation is 669,375 afy with 583,675 afy available for depletion (remainder reserved for reservoir depletion);
- The proposed Navajo Nation San Juan River Basin water right settlement is a diversion of 606,060 afy (depletion of 325,370 afy) and 50% of any additional apportionment;
- San Juan River depletions are Navajo Nation (56%), San Juan-Chama (17%), other non-Indian (16%), power plants (6%), and Jicarilla Apache Nation (5%);
- Navajo Indian Irrigation Project (110,630 acres) with a 1868 priority diversion right (satisfied out of Navajo Reservoir storage with right to use tail water so long as depletion is not increased) of 508,000 afy (depletion 270,000 afy) (Note: water right transferable to other uses by Navajo Nation.);
- Fruitland-Cambridge (3,335 acres) with a 1868 priority diversion right of 18,180 afy (depletion right of 7,970 afy (alternate water supply);
- Hogback, Cudei, Area 7 (8,830 acres) with a 1868 priority diversion right of 48,550 afy (depletion right of 21,280 afy) includes \$15.7 M for rehabilitation (alternate water supply);
- San Juan Basin has \$10 M State funding for ditch improvements;
- Alternate water supply
  - Pre-approved transfer of NIIP water right, within authorized depletion
  - Hogback and Fruitland to receive up to 15,000 afy out of NIIP water supply so long as no shortage occurs in NIIP water supply
  - Depletions are charged against NIIP, NIIP depletions increased to 270,000 afy to allow protection of wet water supply for Hogback and Fruitland
  - Eliminates need to assert "call" against other water users in most years
  - Increases NIIP flexibility through ten-year average;
- Navajo-Gallup Water Supply Project has total diversion of 37,760 afy (35,890 afy total depletion)
  - Navajo in NM (20,780 afy) Settlement depletion
  - Navajo in AZ (6,410 afy) must come from AZ's allocation of water
  - City of Gallup (7,500 afy) must find their own water supply
  - Jicarilla Apache (1,200 afy) decreed water rights in NM;
- Animas – LaPlata Project will provide municipal water for Upper Fruitland, Nenahnezad, San Juan, Hogback, and Shiprock (4,680 afy diversion/2,340 afy depletion);
- Groundwater will provide 2,000 afy (1868 priority) with Navajo administration on trust lands and OSE administration on fee lands (right to additional groundwater subject to non-impairment of existing groundwater users and depletions greater than 2,000 afy from San Juan River subject to offset plan approved by OSE);
- Miscellaneous uses (additional water) including small irrigation projects, stock ponds, stock wells, and livestock uses to be added after hydrographic survey (1868 priority);
- Total proposed Settlement cost (excluding Gallup and Jicarilla share of Navajo-Gallup) is \$986,900,000; and
- Settlement schedule
  - Approve Settlement Agreement (2004)
  - Enact Settlement Act (2006)
  - Complete NGWSP EIS/ROD (2006)
  - Complete Hydrographic Survey (2011)

- Entry of Partial Final Decree (2015)
- Complete Trust Fund deposits (2016)
- Last date for revocation of Decree (2025).

Jim Dunlap made the following ISC-related observations:

- Serious mistakes were made on the Pecos River historically and it will cost the State a lot of money to fix the situation (more funding is needed and the price of land is up); and
- A master plan is needed for Ute Lake (ISC owns 24,000 afy of water).

John D'Antonio made the following comments in his update:

- An additional \$30M is needed for the Pecos settlement;
- Funding is needed to convert temporary positions to permanent \$4.7M;
- Funding levels in the Rio Grande and Irrigation Works trust funds need to be restored (\$30M);
- Federal funds are being pursued for active water resource management;
- The Active Water Resources Management rule making is moving forward;
- Combining the domestic well bills (limiting wells and increasing permit fees to offset depletion) is an opportunity.

Peter Davies and Sarah Kotchian will provide a report on BRWTF OSE/ISC funding recommendation discussions.

The Task Force toured NIIP.